

Appl. No. 09/972,576
Amendment/Response
Reply to Final Office Action of
May 16, 2003

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REMARKS/DISCUSSION OF ISSUES

Claims 1-5, 9 and 10 are currently pending in the application. Claims 1 and 2 have been amended.

Claims are amended for non-statutory reasons, to place them in standard U.S. patent practice format.

Rejections Under 35 U.S.C. § 112

The Office rejects claims 1-5, 9 and 10 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Independent claim 1 has been amended to place it in more standard U.S. patent practice format. The claims no longer state a connection between the areal sizes of the diffusion regions and the breakdown voltages.

In view of the above amendments and remarks, it is respectfully submitted that the rejections under 35 U.S.C. § 112, first paragraph, of claims 1-5, 9 and 10 should be withdrawn.

Rejections Under 35 U.S.C. § 102(b)

The Office rejects claims 1-5, 9 and 10 under 35 USC § 102(b) in view of *Zambrano* (U.S. Patent 5,300,451). For at least the reasons set forth below, it is respectfully submitted that these claims are allowable over the cited reference.

To properly establish a *prima facie* case of anticipation, all of the claimed elements must be found in the prior art. It follows, therefore, that if a single claimed element is not found in the prior art, a *prima facie* case of anticipation cannot properly be established.

Claim 1 features:

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"...a first diffusion region (26) in said first portion of said substrate layer (13), being of a second conductivity type opposite to said first conductivity type and having a greatest depth at a first point along a width of said first diffusion region (26) and having a lesser depth at a second point along said width;

a shallow region (27) in said first portion of said substrate layer (13), being of said first conductivity type and being on top of said second point of said first diffusion region (26) but not on top of said first point of said first diffusion region (26); ..."

The claimed structure is supported in the filed application at Fig. 3m and at page 7 lines 1-2 and 10-21. .

While the reference to Zambrano does disclose an emitter 13 being disposed on top of a portion of a base 12, the depth of the base 12 is greatest at a point where the emitter 13 is on top of the base 12. This clearly differs from the structure featured in claim 1. (Kindly refer, for example to Fig. 17 of Zambrano for support for this assertion).

Because the reference to Zambrano lacks at least one of the claimed elements of independent claim 1, it cannot serve to establish a *prima facie* case of anticipation. As such, claim 1 and the claims that depend therefrom are believed to be allowable over the applied art. Allowance is earnestly solicited.

Conclusion

In view of the foregoing, it is respectfully requested

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that all objections and rejections be withdrawn. Allowance of all pending claims is earnestly solicited.

In the event that there are any outstanding matters remaining in the present application, the Examiner is invited to contact William S. Francos, Esq. (Reg. No. 38,456) at (610) 375-3513 to discuss these matters.

Except as otherwise stated in the previous Remarks, applicant notes that each of the amendments have been made to place the claims in better form for U.S. practice or to clarify the meaning of the claims; and not to distinguish the claims from applied art, otherwise narrow the scope, or to comply with other statutory provisions. Applicant reserves all entitled rights under the Doctrine of Equivalents.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees under 37 C.F.R. \$1.16 or under 37 C.F.R. \$1.17.

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Respectfully submitted on behalf of:
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by: William S. Francos (Reg. No. 38,456)

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August 18, 2003
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